

Your Rights Under the Age Discrimination in Employment Act

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As an employee over the age of 40, you have rights that your younger co-workers do not have. Do you know what those rights are, and more importantly, how to protect them?

Age Discrimination in Employment Act (ADEA)

The ADEA protects you from discrimination if you are 40 or over and work for an employer with 20 or more employees. This law promotes employment based on ability, not age. It prohibits an employer from using age as the basis for hiring, firing, training, benefits or other employment decisions.

The ADEA also makes it illegal to harass an employee because of his/her age, or to retaliate against an employee who complains about age discrimination.

Unfortunately, older employers can sometimes face a variety of stereotypes. Some employers assume older workers are not energetic enough, or are unable to understand modern technology, unwilling to adapt to new procedures or suffer from an overall decline in skills. Other examples of age discrimination include:

- Calling an employee in her 60s “Granny” or “Dinosaur”;
- Telling an employee that it’s time he retires;

- Posting job ads that encourage *recent* college graduates to apply; and
- Demoting an older worker because he complained that his boss told him he was “too old and slow” to do his job.

How to Protect Your Rights

If you have been the victim of age discrimination, you should file a Charge of Discrimination with the Utah Antidiscrimination & Labor Division (“UALD”). The process is free and you do not need a lawyer.

Requirements:

- Your employer must have at least 20 employees.
- You must file your charge of employment discrimination within 180 days of the alleged discriminatory act. If more than 180 but less than 300 days have passed since the last date of harm, your charge will be sent to the EEOC for processing.

How do I file a complaint?

- Contact us by phone or in person at our offices to obtain the intake packet. Our contact information is below. An intake specialist will help you fill out the forms and answer any questions you may have about the law or our process.



What Happens Next?

- Within 10 days, both you and the employer will receive a copy of the complaint by mail. A resolutions conference (a voluntary opportunity to mediate and resolve your complaint) will also be scheduled.
- If the mediation is unsuccessful, your case will be assigned to an investigator who will investigate your claims. After the evidence has been gathered, the Division will issue a finding of whether there is “reasonable cause” or “no reasonable cause” to believe that illegal discrimination has occurred.
- If you do not agree with our decision, you have several options. You may appeal it to an Administrative Law Judge, or request a Right to Sue Notice and file a lawsuit in federal court. You should talk to your investigator about these and other options you may have.

At any point in the UALD process:

- We can help you and the employer to settle the case at any time in the process.
- You may withdraw your charge and request a Right to Sue Notice so you can file in federal court.
- Either party can obtain legal counsel or other representation at any time. ✂

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